

ESTEVAN ALVARADO-HERRERA, an individual,

Plaintiff,

v.

ACUITY A MUTUAL INSURANCE COMPANY, a Wisconsin corporation; and DOES I through XX, inclusive,

Defendant.

PETITION FOR REMOVAL

PLEASE TAKE NOTICE that Defendant/Petitioner, Acuity A Mutual Insurance Company, hereinafter “Defendant” or “Acuity,” by and through its attorneys, David J. Feldman, Esq. and Rachel J. Holzer, Esq., of The Feldman Firm, hereby removes the State action described herein to Federal Court. The grounds for removal are as follows:

2. A copy of all process, pleadings and orders served upon Defendant in the State Court action are attached hereto as **Exhibit 1**.

1 3. This Petition is filed timely pursuant to 28 U.S.C. §1446(b).

2 4. This action is a civil action of which this Court has diversity jurisdiction under the
3 provisions of 28 U.S.C. §1332 and 28 U.S.C. §2201, and is one which may be removed to this Court
4 by Petitioner pursuant to the provisions of 28 U.S.C. §1441(b).

5 5. There is a diversity of citizenship between Plaintiff Estevan Alvarado-Herrera and
6 Defendant Acuity. Defendant Acuity is informed and believes that Plaintiff Estevan
7 Alvarado-Herrera was and still is a citizen of the State of Nevada, as indicated in Plaintiff's
8 Complaint. Defendant Acuity was at the time of the filing of this action, and still is a corporation
9 incorporated in the State of Wisconsin.

10 6. The matter in controversy exceeds \$75,000.00. Plaintiff claims he has sustained
11 \$201,611.30 in past medical specials with an additional anticipated future medical specials in an
12 amount of at least \$224,000.00 (*See* Complaint at p. 4, enumerated ¶15, attached here as **Exhibit 2**
13 (without Exhibits). Further, as set forth in Plaintiff's letter of February 26, 2021, Plaintiff has
14 demanded the full policy limits be tendered to him under the uninsured/underinsured portion of the
15 policy of insurance with Acuity (which has \$1,000,000.00 in underinsured motorist limits per
16 person/per accident) (*See* **Exhibit 3**, Plaintiff's Demand letter of February 26, 2021; *see also*, **Exhibit**
17 **2** at ¶¶54 and 61). In addition to Plaintiff seeking compensatory and special damages in an amount
18 in excess of \$1,000,000.00 under the uninsured/underinsured portion of the policy of insurance with
19 Acuity, Plaintiff seeks damages for Breach of Contract for underinsured motorist benefits (*Id.* at pp.
20 20-21, ¶¶97-108), Unfair Insurance Practices (*Id.* at pp. 21-23, ¶¶109-117), and Tortious Breach of
21 Implied Covenant of Good Faith and Fair Dealing (*Id.* at pp. 23-24, ¶¶118-132), including damages
22 for benefits denied under the insurance policy, punitive damages, and attorney's fees, in an amount
23 in excess of Fifteen Thousand Dollars (\$15,000.00) (*Id.* at p. 25). Given those claims against this
24 national insurance company, it is clear that Plaintiff is seeking damages in excess of \$75,000.00.

25 7. Defendants were served through US Mail on February 17, 2022 (*See* **Exhibit 1**).

26 8. Pursuant to 28 U.S.C. §1446, a copy of this Petition for Removal is being filed with
27 the Clerk of the Eighth Judicial District Court, Clark County, Nevada, and is further served on all
28 parties hereto.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 9th of March, 2022, I mailed a true and correct copy of the foregoing **PETITION FOR REMOVAL** in a sealed envelope with First Class postage fully prepaid, addressed to the following:

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